

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STEVEN VANCE, *et al.*

Plaintiffs,

v.

AMAZON.COM, INC,

Defendant.

2:20-cv-01084-JLR

**DECLARATION OF SCOTT R.  
DRURY IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION  
PURSUANT TO FED. R. CIV.  
23(b)(3)**

I, Scott R. Drury, declare as follows:

1. I am an attorney with the firm of Loevy & Loevy and am one of the attorneys, together with co-counsel Carlson Lynch, LLP, representing Plaintiffs in the above-titled action. I have personal knowledge of the facts set forth in this Declaration and am competent to testify as to its contents.

2. A central issue in this case is the alleged non-compliance of Defendant Amazon.com, Inc. ("Defendant" or "Amazon") with Illinois' Biometric Information Privacy Act ("BIPA"), 740 Ill. Comp. Stat. 14/1, *et seq.* Specifically, Plaintiffs allege that Defendant failed to provide notice or obtain written consent from Plaintiffs or class members prior to obtaining their biometric identifiers and biometric information, as those terms are defined in BIPA. To date,

1 Defendant has not identified any examples of it providing such notice or receiving such written  
2 consent.

3         3. In connection with my work on this case, I have met Plaintiff Steven Vance and  
4 Plaintiff Tim Janecyk and have personal knowledge of what their faces look like. Further, in  
5 connection with my work on this case, I have reviewed URL links in the Diversity in Faces Dataset  
6 that correspond with photographs uploaded to Flickr by Plaintiffs. One such link to a photograph  
7 uploaded by Plaintiff Vance is [http://farm1.staticflickr.com/13/16359121\\_06ac7e0ee7.jpg](http://farm1.staticflickr.com/13/16359121_06ac7e0ee7.jpg).  
8 Plaintiff Vance's face is contained in multiple images to which the Diversity in Faces Dataset links.  
9 Plaintiff Janecyk's face is contained in multiple images to which the Diversity in Faces Dataset  
10 links.  
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12         4. In connection with this litigation, Plaintiff Vance has prepared for and sat for a  
13 lengthy deposition, timely responded to numerous written discovery requests, produced  
14 documents, followed the progress of the litigation, and timely cooperated with counsel concerning  
15 requests to provide any assistance otherwise required to prosecute this case.  
16

17         5. The matter of *Vance v. Int'l Business Machines Corp.* ("IBM"), No. 20 C 577 (N.D.  
18 Ill.), arises out of the alleged unlawful collection, capture and obtainment of Biometric Data in  
19 connection with the Diversity in Faces Dataset.

20         6. In connection with litigating this case, Plaintiffs anticipate incurring costs in  
21 connection with the retention of an expert who will need to review the source code underlying the  
22 Diversity in Faces Dataset, as well as Defendant's commercial facial recognition products.  
23

24         7. At present, Plaintiffs' counsel are not aware of information showing that a potential  
25 class member has provable actual damages in excess of the liquidated damages of \$1,000 or \$5,000  
26 provided by BIPA.  
27

1           8.       Exhibit 1, hereto, is a true and correct copy of excerpts of the deposition transcript  
2 of Michele Merler (with personal information redacted), a witness deposed in this case.

3           9.       Exhibit 2, hereto, is a true and correct copy of excerpts of the deposition transcript  
4 of Michael Martin, a witness deposed in the matter of *Vance v. Int'l Business Machines Corp.*, No.  
5 20 cv 577 (N.D. Ill.).

6           10.      Exhibit 3, hereto, is a true and correct copy of a document titled "Dataset:  
7 YFCC100M," as it was produced to Plaintiffs by Verizon Media, Inc.

8           11.      Exhibit 4, hereto, is a true and correct copy of the following research paper: Joy  
9 Buolomwini, *et al.*, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender*  
10 *Classification*, Proceedings of Machine Learning Research (2018).

11           12.      Exhibit 5, hereto, is a true and correct copy of the following research article:  
12 Michele Merler, *et al.*, *Diversity in Faces* (Feb. 22, 2019).

13           13.      Exhibit 6, hereto, is a true and correct copy of a document titled "IBM Research  
14 Diversity in Faces (DiF) Dataset V1," as it was produced to Plaintiffs by Defendant.

15           14.      Exhibit 7, hereto (filed under seal), is a true and correct copy of a slide deck titled  
16 "Diversity in Faces (DiF)," as it was produced to Plaintiffs by International Business Machines  
17 Corporation ("IBM").

18           15.      Exhibit 8, hereto, is a true and correct copy of portions of Plaintiff Steven Vance's  
19 Answers to Defendant Amazon.com, Inc.'s First Set of Interrogatories to Plaintiff Steven Vance.

20           16.      Exhibit 9, hereto, is a true and correct copy of excerpts of the deposition transcript  
21 of Plaintiff Steven Vance (with personal information redacted) in this case.

22           17.      Exhibit 10, hereto, is a true and correct copy of portions of Plaintiff Tim Janecyk's  
23 Answers to Defendant Amazon.com, Inc.'s First Set of Interrogatories to Plaintiff Tim Janecyk.  
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1           18.     Exhibit 11, hereto, is a true and correct copy of excerpts of the deposition transcript  
2 of Plaintiff Tim Janecyk (with personal information redacted) in this case.

3           19.     Exhibit 12, hereto, is a true and correct copy of Exhibit 27 from the deposition of  
4 Michele Merler, consisting of a file titled “DiF\_locations\_distribution.”

5           20.     Exhibit 13, hereto, is a true and correct copy of portions of Amazon’s Objections  
6 and Answers to Plaintiff Tim Janecyk’s First Set of Interrogatories.

7           21.     Exhibit 14, hereto, is a true and correct copy of email correspondence between Tal  
8 Hassner and Michele Merler (with personal information redacted), as it was produced to Plaintiffs  
9 by IBM.

10          22.     Exhibit 15, hereto, is a true and correct copy of a questionnaire seeking access to  
11 the Diversity in Faces Dataset (with personal information redacted), as it was produced to Plaintiffs  
12 by IBM.

13          23.     Exhibit 16, hereto, is a true and correct copy of a July 8, 2020 Order entered in *IBM*.

14          24.     Exhibit 17, hereto, is a true and correct copy of Loevy & Loevy’s Firm Resume.

15          25.     Exhibit 18, hereto, is a true and correct copy of Exhibit 3 from the deposition of  
16 Michele Merler, consisting of portions of the YFCC100M Dataset, also referred to as the Flickr  
17 Dataset.

18          26.     Exhibit 19, hereto, is a true and correct copy of a screenshot of a search tool titled  
19 “Did IBM use your photo,” with the submitted name “viewminder.”

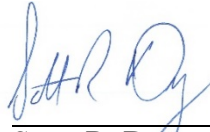
20          27.     Exhibit 20 hereto, is a true and correct copy of a screenshot of a search tool titled  
21 “Did IBM use your photo,” with the submitted name “Steven Vance.”

22          28.     Exhibit 21 hereto, is a true and correct copy of the Declaration of Dr. Atif Hashmi  
23 in Support of Plaintiffs’ Motion for Class Certification.

1 I certify under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct.

3 Executed this 7<sup>th</sup> day of October, 2021, in Chicago, Illinois.

4  
5  
6 By:



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